

3006958-GVC/af

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

SABINE CAIN,

Plaintiff,

V.

AMERICAN AIRLINES, INC., a
Corporation,

Defendant.

No. **FILED: MAY 15, 2008**
08CV2827 **AEE**
JUDGE LEFKOW
MAGISTRATE JUDGE COX

**NOTICE OF REMOVAL OF CIVIL
ACTION TO THE UNITED STATES DISTRICT COURT**

NOW COMES the petitioner, AMERICAN AIRLINES, INC., (hereinafter "AMERICAN") by and through its attorneys, SMITHAMUNDSEN, and giving notice to this Honorable Court of the removal of the above styled cause of action from the Circuit Court of Cook County, Illinois, County Department, Law Division to the United States District Court for the Northern District of Illinois, Eastern Division, pursuant to the provisions of 28 U.S.C. §§1332, 1441 and 1446 herein states as follows:

I. This action is being removed to the United States District Court for the Northern District of Illinois, Eastern Division, on the basis that the District Court has original jurisdiction of all civil actions where the matter in controversy exceeds the sum of \$75,000 and is between citizens of different states. 28 U.S.C. §1332(a)(1).

II. On April 26, 2006, the plaintiff, SABINE CAIN, filed in the Circuit Court of Cook County, Illinois, Law Division the above entitled civil action bearing Case No. 2008-L-003229 in the records and in the files of that court. The aforesaid state court action is a suit

wholly civil in nature alleging negligence and damages. (See plaintiff's complaint which is attached as Ex. A).

III. This court has valid original jurisdiction over this action because the matter in controversy exceeds the value of \$75,000 and is between citizens of different states. 28 U.S.C. §1332(a)(1). The basis for diversity jurisdiction under 28 U.S.C. §1332(a)(1) is:

- a. AMERICAN is a Delaware corporation with its principal place of business in Fort Worth, Texas;
- b. SABINE CAIN is a citizen of Florida;
- c. The matter in controversy for the alleged damages of SABINE CAIN is in excess of \$75,000. SABINE CAIN claims to have sustained a fractured left ankle that required an open reduction and internal fixation surgery to repair the lateral malleolar fracture. She claims medical expenses of \$12,549, lost wages of \$30,090 and non-economic damages.

IV. This notice is being filed pursuant to 28 U.S.C. §1446 within thirty days of the of AMERICAN's first notice of the lawsuit when it was served on April 11, 2008. AMERICAN's Notice of Removal is therefore both timely and proper because:

- a. the time for filing their petition under 28 U.S.C. §1446 has not expired; and
- b. the District Court has original jurisdiction over the civil action where the matter in controversy exceeds \$75,000 and is between citizens of different states.

Consequently, the plaintiff's civil claims for damages establishes original jurisdiction under 28 U.S.C. §1332.

V. AMERICAN hereby gives notice of the removal of this action from the Circuit Court of Cook County, Law Division, in which this case was originally brought to the United States District Court for The Northern District of Illinois, Eastern Division. Attached to this notice and marked as Ex. A and incorporated herein by reference are true and correct copies of the pleadings served upon AMERICAN in this action.

WHEREFORE, the Petitioner, AMERICAN AIRLINES, respectfully gives notice of removal of this complaint from the Circuit Court of Cook County, Law Division to the United States District Court for the Northern District of Illinois, Eastern Division.

Respectfully submitted,

/s/ Gerald Cleary 62001000

SmithAmundsen LLC

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EXHIBIT A

ATTORNEY CODE 31185

STATE OF ILLINOIS)
) SS.
 COUNTY OF COOK)

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
 COUNTY DEPARTMENT - LAW DIVISION

SABINE CAIN,)
) No.
 Plaintiff(s))
)
 vs.)
)
 AMERICAN AIRLINES, INC.,)
 a Foreign Corporation,)
)
 Defendant(s))

2008L003223
 CALENDAR/ROOM E
 TIME 00:00
 Premises Liability

COMPLAINT AT LAW

NOW COMES the Plaintiff, Sabine Cain, by and through her attorneys, SMITH & ALBERTS, and complaining of the Defendant, American Airlines, Inc., a Foreign Corporation, alleges as follows:

1. That on March 24, 2006, and for some time prior thereto, defendant, American Airlines, Inc., a foreign corporation, was a corporation duly licensed and registered to do business within the State of Illinois and on said date, owned, operated, maintained and controlled certain common areas which were being used at O'Hare International Airport, in the City of Chicago, County of Cook and State of Illinois.
2. That on March 24, 2006, and prior thereto, defendant, American Airlines, Inc., a foreign corporation, possessed, operated, managed, maintained and controlled, or had a duty to possess, operate, manage, maintain and control, both directly and indirectly, individually and through their agents, servants and employees, certain common areas being used by patrons at said location, at O'Hare International Airport, in the City of Chicago, County of Cook, State of Illinois.
3. On said date, Plaintiff, Sabine Cain, was on said premises in a common area, located on the above premises, at which time plaintiff slipped and fell, severely injuring herself.
4. That on the aforementioned date, the Plaintiff was lawfully on the premises of the Defendant, where the aforementioned incident took place.

5. That the above-mentioned area was managed, maintained and constructed by or for the benefit of defendants and was designated as a place of entrance and/or exit onto Defendants' premises for use by the Plaintiff and the general public.

6. At all times relevant hereto, it was the duty of defendants, and each of them, to use ordinary and reasonable care in the design, maintenance and construction of the common area and surrounding area in order to keep same in a reasonably safe condition so as not to endanger those persons using said property or its surrounding premises.

7. Notwithstanding said duty, Defendants, acted or failed to act in one or more of the following ways which amounted to negligent and/or careless conduct.

- a. Improperly operated, managed, maintained and controlled the aforesaid property so that as a direct and proximate result therefore, the plaintiff was injured;
- b. Failed to make a reasonable inspection of said area surrounding it when the defendants knew or should have known that the inspection was necessary to prevent injury to the plaintiff.
- c. Failed to warn the Plaintiff and other persons of the dangerous and/or hazardous condition present;
- d. Created a dangerous and/or hazardous condition by allowing the aforementioned premises to be unsafe for the Plaintiff and the general public;
- e. Was otherwise careless and/or negligent in the operation, maintenance and/or control of the above-mentioned premises.

8. That the above-mentioned premises was dangerous in that it caused plaintiff to slip and fall, thereby injuring herself.

9. As a direct and proximate result of one or more of the foregoing acts and/or omissions of the Defendants, Plaintiff was caused to and did fall at the above-mentioned location.

10. As a direct and proximate result of one or more of the foregoing acts and/or omissions of the Defendants, Plaintiff sustained injuries of a pecuniary and personal nature, and as such was caused to and did seek medical care for the treatment of same; further, Plaintiff was caused to and did become absent from her usual pursuits for a period of time.

WHEREFORE, plaintiff, Sabine Cain, prays for the entry of judgment against the Defendant, American Airlines, Inc., a foreign corporation, in the amount in excess of FIFTY THOUSAND DOLLARS, (\$50,000.00) and the costs of this suit.

BY: 

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